

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

<b>GERTRUDE ANITA BROADWAY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
<b>v.</b>	)	<b>CIVIL ACTION</b>
	)	<b>NO. 2:10-cv-02898-JPM-tmp</b>
<b>FEDERAL EXPRESS,</b>	)	
	)	
<b>Defendant.</b>	)	

**PLAINTIFF’S MOTION FOR LEAVE TO AMEND COMPLAINT**

Plaintiff moves for leave of court to amend her complaint by the addition of the following allegations and prayer:

1. In early, May, 2009, as a consequence of Healy’s aforestated actions, a grade level 24 position in Albuquerque, New Mexico.
2. On or about May 22, 2009, the company posted a grade level 29 position listed as Business Strategist.
3. Plaintiff timely applied for the position and met the qualifications for it.
4. The position was hastily closed within one week on May 29, 2009. Shortly after that Date, a white male named Todd Tribal was selected by defendant to fill the position.
5. On information and belief, according to the company, the white male had also been “affected” by the RIF.
6. The white male selectee was chosen after an interview process which included

Robert Bennett, Senior Vice President of Federal Express. Bennett was the selecting official.

7. Plaintiff was not given an interview for the position for some unexplained reason Presented by Bennett. PEx 3, Bennett dep. pp. 112-114.

8. According to Bennett, plaintiff was excluded from the interview pool of applicants by “the way the process worked.” The company ‘s legal department made the determination of who went into the pool and on that basis seniority was to apply according to Bennett, Legal kept plaintiff out of the pool for the position.

9. Because seniority was the deciding factor for pool eligible persons, and because plaintiff would have been selected for the vacancy in that she had 20 years of experience compared to seven years for experience in the company for Tribal.

10. The Business Strategist position is grade 29 compared to plaintiffs reduced grade 24. PEx 42.

11. Plaintiff was not aware of the identity of the person who received the position, neither his race, nor his sonority until November 14, 2011, the discovery deadline date and after the time for filing amendments to the pleadings had passed.

12. Because plaintiff will be prejudiced under principles of res adjudicata regarding this new position, plaintiff is entitled to have the court consider her claim for relief therefor and to also utilize the company ‘s treatment of her as additional evidence of unlawful discrimination regarding her racial discrimination RIF claim.

Wherefore, plaintiff moves the court for leave to amend her complaint as being in the interests of justice. She further prays for equitable relief and damages for having been denied the position of Business Strategist in 2009 by defendants due to her race or color in contravention of 43 U.S.C. Section 1981.

Respectfully submitted,

/s/ John W. Walker  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of May, 2012, a true and correct copy of the foregoing was filed and served electronically with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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/s/ John W. Walker

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